

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 5053 of 1997

For Approval and Signature:

Hon'ble MR.JUSTICE C.K.BUCH

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1. Whether Reporters of Local Papers may be allowed to see the judgements?
2. To be referred to the Reporter or not?
3. Whether Their Lordships wish to see the fair copy of the judgement?
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
5. Whether it is to be circulated to the Civil Judge?

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SATISHBHAI CHANDULAL KOTHARI

Versus

AHMEDABAD ELECTRICITY CO. LTD

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Appearance:

MR PRADYUMAN B BHATT for Petitioner

MR HB SHAH for Respondent No. 1

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CORAM : MR.JUSTICE C.K.BUCH

Date of decision: 07/10/98

ORAL JUDGEMENT

Heard ld. counsel appearing for the parties.  
Considering the averments made in the petition vis-a-vis the method of calculation of the amount of electricity consumption for disputed period, this petition requires to be admitted.

Hence, Rule. ld. counsel Mr. H.B.Shah waives service of Rule on behalf of respondent- Ahmedabad Electricity Company. With the consent of ld. counsels appearing for the parties, the matter is taken up for final hearing today.

According to the petitioner, the bill demanding an amount of Rs. 35,206-00 ps. (Annex.E) is contrary to the provisions of sub-sec.6 of sec.26 of the Indian Electricity Act, 1910 (hereinafter referred to as the Act). The other contention of the petitioner is that looking to the dispute raised by the petitioner that the fact that his electricity meter was not properly working, the dispute ought to have been referred to the Electrical Inspector.

Ld. counsel Mr. Shah appearing for the respondent has submitted that he has no objection if the dispute is referred to the Electrical Inspector because the company accepts the contention of the petitioner that petitioner's meter referred in the petition was not properly working. He alternatively submitted that if electricity company is approached with proper representation, electricity company is ready to consider the same in accordance with the provisions of sub-sec.6 of sec.26 of the Act. I would like to refer relevant sub-sec.6 of sec.26 of the Act which reads as under:-

"26.Meters.-

(1) xxx xxx xxx

to

(5) xxx xxx xxx

(6) Where any difference or dispute arises as

to whether any meter referred to in sub section (1) is or is not correct, the matter shall be decided, upon the application of either party, by an electrical Inspector, and where the meter has, in the opinion of such Inspector ceased to be correct, such Inspector shall estimate the amount of the energy supplied to the consumer or the electrical quantity contained in the supply, during such time, not exceeding six months, as

the meter shall not, in the opinion of such Inspector, have been correct; but save as aforesaid, the register of the meter shall, in the absence of fraud, be conclusive proof of such amount or quantity:

Provided that before either a licensee or a consumer applies to the Electrical Inspector

under this sub-section, he shall give to the other party not less than seven days' notice of his intention so to do.

(7) xxx xxx xxx "

Language of this sub-section gives a mandate and by that mandate creates an embargo against the electricity supplying company or Board with regard to issuance of bill exceeding six months. In the case on hand, the company has calculated the amount on average consumption arrived at for much longer period than six months. So, it can be said that the bill ANNEX :E is defective and the demand, therefore, is based on the error committed by the respondent company. So this bill cannot be sustained. It was pointed out to ld. counsel Shri Shah that document produced at page-14 which is a letter addressed to the Chairman of Someshwar Co.Op.Housing Society Ltd., Jodhpur, Ahmedabad, wherein average monthly consumption is shown as 350 unit, but bills are issued bi-monthly and average is also worked out on the figure available on bi-monthly bills or say figure of bi-monthly consumption. So, the figure shown in column no.4 says about the bi-monthly consumption and, therefore, the entire demand should be calculated accordingly.

Ld. counsel appearing for the petitioner fairly submitted that he has no objection in approaching the

respondent company with details and he does not press his submission with regard to the reference of the dispute to the Electricity Inspector. According to Mr. Bhatt, the petitioner will be satisfied if the calculation of the consumed unit is made in accordance with sub-sec.6 of sec.26 of the Act. He has submitted that the petitioner is ready to pay the amount i.e. entire arrears within 30 days from the date of issuance of fresh bills or determination of the amount. In view of the above facts, this petition should be disposed of by issuing certain directions.

The impugned bill dated 26.10.1996 at ANNEX :E is hereby quashed and set aside. The petitioner is directed to approach respondent- AEC with a representation to recalculate the amount payable on the consumption for the period of six months as the meter of the petitioner was not properly working and was admittedly found defective, within 15 days from the date of this order. On receipt of such representation, the respondent AEC shall decide

the same within 15 days from the date of receipt/presentation thereof and shall determine the exact number of units consumed by the petitioner during the period of six months and issue fresh bill to the petitioner keeping in view provisions of sub-sec.6 of sec.26 of the Act. On receipt of fresh bill, the petitioner shall deposit the entire amount of the bill within 30 days from the date of receipt thereof failing which respondent company shall be entitled to initiate proceedings against the petitioner in accordance

with the provisions of the Act as well as Rules framed thereunder for non-payment of bill amount. Such payment would be without prejudice to his rights to challenge fresh bill in accordance with law if he is aggrieved by the same.

Rule is made absolute accordingly. No costs.  
DIRECT SERVICE IS PERMITTED.

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